

**REMARKS**

This is a response to the Office Action mailed August 19, 2005. Claims 1-24, 27, and 30 are pending in the application. Claims 1-32 have been rejected by the Examiner. Claims 27 and 30 have been amended. Claims 25, 26, 28, 29, 31, and 32 have been canceled.

**Claim Rejections 35 U.S.C. § 103****Claims 1, 3, 7-9, 11, 15-17, 19, 23, and 24**

The Examiner has rejected Claims 1, 3, 7-9, 11, 15-17, 19, 23, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. (U.S. Patent No. 6,372,283) in view of Sass (U.S. Patent No. 6,383,215). Applicant respectfully disagrees.

The Examiner states that Shim et al. “teach an apparatus for coating implantable medical devices comprising a CVD (chemical vapor deposition) coating chamber (12) and a pressure controller 34 wherein the apparatus enables coating composition to be deposited on an implantable device at a desired pressure.” In particular, Shim et al. teaches “plasma depositing an oxygen-containing, silicon-containing film forming monomer on a pyrolytic carbon surface.” (Abstract of Shim et al.) Shim et al. disclose a plasma reactor 10 in their FIG. 10. (col. 4, line 51 of Shim et al.)

The Examiner further states that Sass teaches coating an implantable medical device “with a solvent based coating composition using a CVD type coating chamber.”

Sass et al. illustrate an “arrangement for coating stents by means of a CVD process” in its FIG. 4. (col. 5, lines 59-60 of Sass et al.) Sass indicates that “17beta-estradiol is inserted

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into the accommodation vessel 40 in a form which is suitable for vaporization.” (col. 6, lines 19-21 of Sass)

Based on the Examiner’s comments (e.g. CVD) and the disclosure of the references, Shim et al. and Sass teach depositing compositions from the vapor phase.

Claims 1, 9, and 17 recite “a means for applying a coating composition comprising a coating solvent to an implantable device.” According to MPEP Section 2181,

A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis: (A) the claim limitations must use the phrase “means for” or “step for;” (B) the “means for” or “step for” must be modified by functional language; and (C) the phrase “means for” or “step for” must not be modified by sufficient structure, material or acts for achieving the specified function. MPEP Section 2181

The above-mentioned claim limitation meets the criteria A through C, therefore, it invokes Section 112, sixth paragraph which states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Therefore, the “means for applying a coating composition” in the claim limitation shall be construed to cover corresponding structure described in the specification of the applicant’s specification. Applicant’s specification discloses

An apparatus for coating implantable medical devices such as stents is provided. The apparatus includes a chamber for housing a stent and a pressure controller for adjusting the pressure of the chamber during the

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coating process to a pressure below or above 760 torr. In one embodiment, an applicator can be provided for spraying a composition at the stent. (paragraph 0008 of specification)

Thus, applicant's specification discloses embodiments of an apparatus to applying a coating composition in the liquid phase on an implantable medical device. In particular, paragraph 00012 and FIG. 1 of the specification discloses specific embodiments of "an applicator 24, such as a spray valve" for applying a liquid coating composition.

As indicated above, Shim et al. and Sass teach vapor deposition on substrates. Therefore, Shim et al. do not disclose a means for applying a liquid coating composition. Sass does not cure the deficiency of Shim et al. Accordingly, claims 1, 9, and 17 are allowable over Shim et al. in view of Sass.

Claims 3, 7 and 8 depend from claim 1 and are allowable for at least the same reason that claim 1 is allowable. Claims 11, 15 and 16 depend from claim 9 and are allowable for at least the same reason that claim 9 is allowable. Claims 19, 23, and 24 depend from claim 17 and are allowable for at least the same reason that claim 17 is allowable. Therefore, applicant requests removal of the obviousness rejections of claims 1, 3, 7-9, 11, 15-17, 19, 23, and 24.

### **Claims 2, 10, and 18**

The Examiner has rejected Claims 2, 10, 18 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. in view of Sass as applied to claims 1, 9, and 17 above, and further in view of Vaartstra et al. (U.S. Patent No. 6,435,798). Applicant respectfully disagrees.

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As indicated above, claim 1 is patentable over Shim et al. in view of Sass.

Vaartstra et al. do not cure the deficiencies of Shim et al in view of Sass with respect to Claim 1. Accordingly, Claim 1 is allowable over Shim et al. in view of Sass and further in view of Vaartstra et al. Claim 2 depends from Claim 1 and is allowable for at least the same reason.

As indicated above, claim 9 is patentable over Shim et al. in view of Sass.

Vaartstra et al. do not cure the deficiencies of Shim et al in view of Sass with respect to Claim 9. Accordingly, Claim 9 is allowable over Shim et al. in view of Sass and further in view of Vaartstra et al. Claim 10 depends from Claim 9 and is allowable for at least the same reason.

As indicated above, claim 17 is patentable over Shim et al. in view of Sass.

Vaartstra et al. do not cure the deficiencies of Shim et al in view of Sass with respect to Claim 17. Accordingly, Claim 17 is allowable over Shim et al. in view of Sass and further in view of Vaartstra et al. Claim 18 depends from Claim 17 and is allowable for at least the same reason.

Applicant respectfully requests removal of the rejection of claims 2, 10, and 18.

**Claims 4, 12, and 20**

The Examiner has rejected Claims 4, 12, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. in view of Sass as applied to claims 1, 9, and 17 above, and further in view of Vallana et al. (U.S. Patent No. 5,370,684). Applicant respectfully disagrees.

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As indicated above, claim 1 is patentable over Shim et al. in view of Sass. Vallana et al. do not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 1. Accordingly, Claim 1 is allowable over Shim et al. in view of Sass and further in view of Vallana et al. Claim 4 depends from Claim 1 and is allowable for at least the same reason.

As indicated above, claim 9 is patentable over Shim et al. in view of Sass. Vallana et al. do not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 9. Accordingly, Claim 9 is allowable over Shim et al. in view of Sass and further in view of Vallana et al. Claim 12 depends from Claim 9 and is allowable for at least the same reason.

As indicated above, claim 17 is patentable over Shim et al. in view of Sass. Vallana et al. do not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 17. Accordingly, Claim 17 is allowable over Shim et al. in view of Sass and further in view of Vallana et al. Claim 20 depends from Claim 17 and is allowable for at least the same reason.

Applicant respectfully requests removal of the rejection of claims 4, 12, and 20.

### **Claims 13 and 21**

The Examiner has rejected Claims 13 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. in view of Sass as applied to claims 9 and 17 above, and further in view of Leidner et al. (U.S. Patent No. 6,056,993). Applicant respectfully disagrees.

As indicated above, claim 9 is patentable over Shim et al. in view of Sass. The combination stated by the Examiner involving Leidner et al. does not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 9. Accordingly, Claim 9 is allowable over Shim et al. in view of Sass and further in view of Leidner et al. Claim 13 depends from Claim 9 and is allowable for at least the same reason.

As indicated above, claim 17 is patentable over Shim et al. in view of Sass. The combination stated by the Examiner involving Leidner et al. does not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 17. Accordingly, Claim 17 is allowable over Shim et al. in view of Sass and further in view of Leidner et al. Claim 21 depends from Claim 17 and is allowable for at least the same reason.

Applicant respectfully requests removal of the rejection of claims 13 and 21.

#### **Claims 6 and 14**

The Examiner has rejected Claims 6 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. in view of Sass as applied to claims 1 and 9 above, and further in view of Bergmann (U.S. Patent No. 5,855,684). Applicant respectfully disagrees.

As indicated above, claim 1 is patentable over Shim et al. in view of Sass. Bergmann does not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 1. Accordingly, Claim 1 is allowable over Shim et al. in view of Sass and further in view of Bergmann. Claim 6 depends from Claim 1 and is allowable for at least the same reason.

As indicated above, claim 9 is patentable over Shim et al. in view of Sass. Bergmann et al. do not cure the deficiencies of Shim et al. in view of Sass with respect to Claim 9. Accordingly, Claim 9 is allowable over Shim et al. in view of Sass and further in view of Bergmann. Claim 14 depends from Claim 9 and is allowable for at least the same reason.

Applicant respectfully requests removal of the rejection of claims 6 and 14.

**Claims 27 and 30**

The Examiner has rejected Claims 27 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Shim et al. in view of Sass and Vaartstra et al. Applicant respectfully disagrees.

Claims 27 and 30 recite the feature “an applicator for spraying the liquid composition at the device.” Shim et al. do not teach or suggest the above-mentioned feature of claims 27 and 30. Sass or Vaarstra et al. do not cure the deficiencies Shim et al. Accordingly, Claims 27 and 30 are allowable over Shim et al. in view of Sass and Vaartstra et al.

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**CONCLUSION**

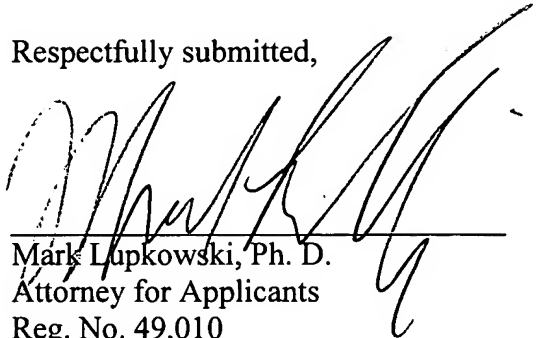
Claims 1-24, 27, and 30 are pending in the application. Examination and allowance of the claims are respectfully requested. If I can be of any help, please contact me.

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Respectfully submitted,



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